

21 C.J.S. Courts § 114

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Courts

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III. Creation and Constitution; Officers of Courts


A. Creation, Organization, and Abolition of Courts

2. Exercise and Delegation of Power

§ 114. Conferral of mixed administrative and quasi-judicial functions

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Courts](#)  42(1), 42(8), 43

While a legislature cannot ordinarily confer purely judicial power upon a body other than a court authorized by the constitution to receive such power, it may confer upon statutory tribunals mixed administrative and quasi-judicial functions.

Although the legislature cannot ordinarily confer purely judicial power upon a body or tribunal other than a court authorized by the constitution to receive such power,¹ it may confer upon a statutory tribunal or commission mixed administrative and quasi-judicial functions properly within the sphere of the legislative power.² Thus, legislation authorizing the supreme court to appoint commissioners to assist the court in the performance of its duties is not an exercise of judicial power by the legislature, and is valid, since such legislation confers no judicial powers on such commissioners.³ Similarly, a statute authorizing the appointment of magistrates, acting as surrogates and not judges, to assist judges in certain limited matters is not an unconstitutional

attempt by the legislature to delegate its authority to create courts to the judiciary since the magistrates act only as agents of the court and are properly supervised by it.⁴

By the great weight of authority, the creation by workers' compensation acts of boards or commissions having authority to pass on claims for injuries, find facts, and make awards does not constitute an unwarranted delegation of judicial powers or the unwarranted creation of a judicial tribunal or court.⁵

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Footnotes

- 1 Fla.—*D'Alemberte v. State*, 56 Fla. 162, 47 So. 489 (1908).
- 2 N.J.—*Erie R. Co. v. Board of Public Utility Com'rs*, 89 N.J.L. 57, 98 A. 13 (N.J. Sup. Ct. 1916), *aff'd*, 90 N.J.L. 672, 103 A. 1052 (N.J. Ct. Err. & App. 1917), *aff'd*, 254 U.S. 394, 41 S. Ct. 169, 65 L. Ed. 322 (1921) and *aff'd*, 90 N.J.L. 673, 103 A. 1052 (N.J. Ct. Err. & App. 1917), *aff'd*, 254 U.S. 394, 41 S. Ct. 169, 65 L. Ed. 322 (1921).
- 3 Cal.—*People ex rel. Morgan v. Hayne*, 83 Cal. 111, 23 P. 1 (1890).
- 4 Tex.—*Kelley v. State*, 676 S.W.2d 104 (Tex. Crim. App. 1984).
- 5 Ill.—*Deibeikis v. Link-Belt Co.*, 261 Ill. 454, 104 N.E. 211 (1914).
Mich.—*Mackin v. Detroit-Timkin Axle Co.*, 187 Mich. 8, 153 N.W. 49 (1915).